MV 95-13

Tax Type: MOTOR VEHICLE USE TAX

Issue: Private Vehicle Use Tax, Business Reorg/Family Sale

STATE OF ILLINOIS

DEPARTMENT OF REVENUE

OFFICE OF ADMINISTRATIVE HEARINGS

CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE )
OF THE STATE OF ILLINOIS )

v. ) No.
Lic #
TAXPAYERS )
Alfred M. Walter
Taxpayer ) Administrative Law Judge

## RECOMMENDATION FOR DISPOSITION

APPEARANCES: No appearance was filed on behalf of either litigant.

SYNOPSIS: This matter comes on for hearing pursuant to the taxpayer's timely protest of The Departments Tentative Determination of Claim denying the taxpayer's claim for credit or refund of \$750.00, paid by the taxpayer, Taxpayer A, for Vehicle Use tax on the purchase of a used G.M.C. Suburban from one, Taxpayer B.

## FINDINGS OF FACT:

- 1. The assignment of title executed by Taxpayer B, indicates the purchaser of the vehicle to be Taxpayer A.
  - 2. Taxpayer B and Taxpayer A are brother's-in-law.
- 3. None of the documents executed to effect a transfer of title mention the name of Taxpayer C, Taxpayer A's wife and Taxpayer B's sister.
- 4. The title documents to the van indicate only a transfer of title from Taxpayer B to Taxpayer A.
- 5 The facts elicited by testimony at the hearing establish a transfer of title from brother-in-law to brother-in-law.
  - 6. There is no statutory exemption applicable for a transfer of

title between brother's-in-law.

- 7. The taxpayer's rebuttal evidence consisted only of testimony and arguments that the taxpayers had no knowledge of the provisions for family exemptions applying by statute only to purchasers who are "the spouse, parent, brother, sister, or child of the seller/transferor."
- 8. The selling price was \$18,000.00 and, in the absence of a statutory exemption, the private vehicle use tax was \$750.00, the amount of tax paid by the taxpayer.
- 9. The taxpayer's only evidence in support of the claim for credit or refund is the equitable argument that had the taxpayer's been aware of the statute, they could have structured the transaction to take advantage of the provision for family exemption.
- 10. This forum is without equitable powers, and cannot imply power or authority not specifically and clearly granted by statute.

CONCLUSIONS OF LAW: On examination of the record established, this taxpayer has failed to demonstrate by the presentation of testimony or through exhibits or argument, evidence sufficient to overcome the Department's prima facie case of tax liability under the tentative determination in question. Accordingly, by such failure, and under the reasoning given beforehand, the determination by the Department that Taxpayer A is subject to the standard rate of tax as imposed by the Illinois Use Tax Act must stand as a matter of law.

Alfred M. Walter Administrative Law Judge